

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

KATHLEEN C. PEREA,

Plaintiff,

v.

No. CIV-13-0697 KG/LAM

**JANIE S. CONNER and
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,**

Defendants.

**ORDER GRANTING IN PART DOCUMENT 102, AMENDING THE
SCHEDULING ORDER, AND SETTING DEADLINES**

THIS MATTER is before the Court on *Defendant Connor's Partially Opposed Motion to Modify Scheduling Order to Extend Discovery and Allow Additional Depositions (Doc. 102)*, filed May 30, 2014. The current scheduling deadlines in this case are as follows:

- a) Plaintiffs' Rule 26(a)(2) expert disclosure: **January 29, 2014** (*see Doc. 37*)
- b) Defendants' Rule 26(a)(2) expert disclosure: **April 7, 2014** (*see Doc. 48*)
- c) Termination date for discovery: **May 7, 2014** (*see Doc. 48*)
- d) Motions relating to discovery: **April 14, 2014** (*see Doc. 21*) **OR**, with regard to discovery motions relating to Defendants' April 3 and April 7, 2014 discovery requests, **21 days after objections are served to those requests** (*see Doc. 81 and 82 and 21-day time limit specified in Local Rule 26.6*)
- e) Pretrial motions other than discovery motions (including motions which may require a *Daubert* hearing): **April 24, 2014** (*see Doc. 21*)¹

¹ The Court notes that the parties have filed a motion to extend this deadline (*Doc. 87*), which is before the presiding judge. At the June 5, 2014 telephonic status conference, the parties stated that this motion is no longer opposed, and that they may file another motion seeking a further extension of this deadline from the presiding judge.

f) Pretrial Order:

Plaintiff to Defendant by: **June 9, 2014**²

Defendant to Court by: **June 23, 2014** (*see Doc. 21*)

The Court held a telephonic status conference in this case on June 5, 2014, at which counsel for both parties were present. At that status conference, the Court noted that when it granted *Document 81*, a firm deadline to file discovery motions was not set by the Court, other than to grant the parties' request to follow the time limits specified in Local Rule Civ. 26.6. The Court will consider Defendants' motions to compel filed May 27, 2014 and May 28, 2014 [*Docs. 99 and 100*] and Plaintiff's motion to quash and objection to *subpoena duces tecum* filed May 30, 2014 [*Doc. 105*], assuming they are timely under the 21-day deadline set forth in Local Rule Civ. 26.6.

In addition, at the June 5, 2014 status conference, the Court and the parties discussed Defendants' partially opposed motion to modify the scheduling order and allow additional depositions [*Doc. 102*]. Plaintiff's counsel stated that Plaintiff does not oppose Defendants taking the deposition of Life Care Planner, Laura Lampton, on **June 12, 2014**, so the Court will extend the discovery deadline in this case for the limited purpose of taking Ms. Lampton's deposition on that date. The Court noted that Defendants failed to provide any authority for their contention that they can take depositions to preserve trial testimony after the discovery period has closed, and that Plaintiff would be prejudiced if this authority was presented in a reply brief. In addition, the Court explained to the parties that, if they agree to take depositions outside of the discovery period, they do not need to wait for a Court order to do so. Pursuant to this discussion, Defendants agreed to amend their motion **no later than June 13, 2014** to modify the scheduling

² At the June 5, 2014 status conference, counsel for Plaintiff stated that he may file a motion asking the presiding judge to extend this deadline as well.

order and allow additional depositions in order to provide authority, if any, for their contentions in the motion and to only include depositions that they wish to take *to which Plaintiff is opposed*. Due to the numerous extensions of deadlines and significant delays in taking depositions in this case, if the parties agree to any additional depositions, the Court instructs them to proceed with those depositions as quickly as possible. *The Court will not allow any additional extensions of time in this case absent a showing of exceptional cause.* The Court finds that, because Defendants have agreed to amend their motion to take additional depositions, and because some of the issues in the motion have been resolved, the Court will grant the motion in part as to the deposition of Ms. Lampton, and will deny the remaining requests in Defendants' current pending motion without prejudice with leave to re-file in accordance with the Court's instructions herein.

IT IS THEREFORE ORDERED that the deadline for motions relating to discovery is extended *nunc pro tunc* to **May 30, 2014**. However, this deadline shall not be construed to extend the twenty-one (21) day time limit in Local Rule Civ. 26.6.

IT IS FURTHER ORDERED that Defendants shall be allowed to take the deposition of Life Care Planner Laura Lampton **no later than June 12, 2014**.

IT IS FURTHER ORDERED that *Defendant Connor's Partially Opposed Motion to Modify Scheduling Order to Extend Discovery and Allow Additional Depositions (Doc. 102)* is **GRANTED in part** and **DENIED in part without prejudice** as set forth above. Defendants may re-file their motion **no later than June 13, 2014**, in compliance with the Court's instructions herein.

IT IS SO ORDERED.



LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE